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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/596,445

06/14/2006

Susan Nicola Pieterse

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6757

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7590

12/12/2008

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EXAMINER

MIGGINS, MICHAEL C

ART UNIT

PAPER NUMBER

1794

NOTIFICATION DATE

DELIVERY MODE

12/12/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

skelleher@kelleherip.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/596,445	<b>Applicant(s)</b> PIETERSE, SUSAN NICOLA	
	<b>Examiner</b> Michael C. Miggins	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 8-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 8-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

#### **REJECTIONS WITHDRAWN**

1. All of the rejections set forth in the non-final rejection of 3/26/08, pages 2-5, paragraphs 1-9 have been withdrawn.

#### **REJECTIONS REPEATED**

2. There are no rejections repeated.

#### **NEW REJECTIONS**

##### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 8-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 7077923) in view of Quick et al. (US 4757940).

Lin discloses a microwaveable and ovenable pack, or sheet, suitable for housing at least one of liquid content and solid-liquid contents (column 7, lines 34-60), said pack comprising a wall with a layer of board, an inner layer sufficiently impermeable to create a seal between said layer of board and said pack's contents (column 4, lines 42-65) and a breathable outer protective layer covering said board which incorporates perforations through the outer layer to the board (column 5, lines 47-62, column 7, lines 34-60).

Lin discloses wherein the perforations are strips (since the gaps can be linear, column 5, lines 47-62), wherein the impermeable layer is of polyethylene terephthalate (column 4, lines 42-65), wherein the perforations extend through the entire outer layer and partially through the board (Fig. 2c and column 5, lines 1-20).

Lin fails to disclose wherein said outer layer is a varnish and said pack incorporates a further layer between said varnish layer and said board which is of ink and which is breathable, wherein said pack incorporates a breathable region which is substantially limited to the ink layer area.

Quick discloses wherein said outer layer is a varnish and said pack incorporates a further layer between said varnish layer and said board which is of ink and which is breathable, wherein said pack incorporates a breathable region which is substantially limited to the ink layer area (column 1, lines 5-10 and see Example 5, since ink is gas permeable and ink is far more permeable to gases than a varnish) for the purpose of providing a container which is resistant to browning, discoloration and flaming and provides decorative effects.

Therefore it would have been obvious to have provided wherein said outer layer is a varnish and said pack incorporates a further layer between said varnish layer and said board which is of ink and which is breathable, wherein said pack incorporates a breathable region which is substantially limited to the ink layer area in Lin in order to provide a container which is resistant to browning, discoloration and flaming and provides decorative effects as taught or suggested by Quick.

Quick discloses cardboard (see Example 5).

5. Claims 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 7077923) in view of Quick et al. (US 4757940), as applied to claims 1, 8-12 and 14 above, and further in view of Watkins (US 4878765).

Lin fails to disclose wherein the board comprises sections which incorporate varnish and sections which are blank of any varnish.

Watkins discloses wherein the board comprises sections which incorporate varnish and sections which are blank of any varnish (column 9, lines 15-33) for the purpose of providing improved microwave heating (column 3, lines 1-13).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided wherein the board comprises sections which incorporate varnish and sections which are blank of any varnish in the pack of Lin in order to provide improved microwave heating as taught or suggested by Watkins.

#### **ANSWERS TO APPLICANT'S ARGUMENTS**

6. Applicant's arguments of 9/23/08 have been carefully considered but are deemed unpersuasive. It is to be noted that while the same references have been used as were used in the non-final rejection of 3/26/08, the rejections are different. Never the less, the examiner is responding to applicant's arguments as they might apply to the new rejections set forth above.

Applicant has argued that Lin fails to disclose a varnish or a board. However, Quick discloses varnish as the outer layer and Lin discloses perforations in the outer

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layer as discussed above. Applicant does not define board in the independent claims, Quick discloses cardboard as discussed above. There is nothing in Lin which specifically teaches away from the use of cardboard (especially since Lin discloses paper or paper-like materials, column 4, lines 42-65) or varnish as the outer layer.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael C. Miggins/  
Primary Examiner, Art Unit 1794

MCM  
December 8, 2008